

SENATE BILL 208

By Haile

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 1, Part 1; Title 36, Chapter 2 and Section
37-1-102, relative to adoption.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-111(a), is amended by adding the following subdivision:

A surrendering party shall complete a social and medical history form as promulgated by the department of children's services, or a substantially similar form, and attach the completed and executed form to the surrendering party's pre-surrender information form.

SECTION 2. Tennessee Code Annotated, Section 36-1-111(w)(5), is amended by deleting the language "[I have received and reviewed a copy of the sworn statement of the child's mother in which the mother identifies me as the father of the child.]" and substituting instead the language "[I have received and reviewed a copy of the statement of the child's mother in which the mother identifies me as the father of the child.]".

SECTION 3. Tennessee Code Annotated, Section 36-1-113(g), is amended by deleting subdivision (9)(A)(i).

SECTION 4. Tennessee Code Annotated, Section 36-1-113(g), is amended by deleting subdivision (9)(B)(ii) and substituting instead the following:

(ii) "Notice" also means the oral statement to an alleged biological father from a biological mother that the alleged biological father is believed to be the biological father, or possible biological father, of the biological mother's child;

SECTION 5. Tennessee Code Annotated, Section 36-1-111(b)(3), is amended by deleting the language "before I sign the form" and substituting instead the language "before I sign this form".

SECTION 6. Tennessee Code Annotated, Section 36-1-111(b)(3), is amended by deleting the language "execution of the foregoing surrender and as required" and substituting instead the language "execution of the foregoing surrender as required".

SECTION 7. Tennessee Code Annotated, Section 36-1-111(b)(3), is amended by deleting the language "true and to the best of" and substituting instead the language "true to the best of".

SECTION 8. Tennessee Code Annotated, Section 36-1-111(b)(4), is amended by deleting the language "go to #10." and substituting instead the language "go to #9."

SECTION 9. Tennessee Code Annotated, Section 36-1-111(b)(4), is amended by deleting the language "whom made the payment" and substituting instead the language "who made the payment".

SECTION 10. Tennessee Code Annotated, Section 36-1-111(b)(4), is amended by deleting the language "putative damages" and substituting instead the language "punitive damages".

SECTION 11. Tennessee Code Annotated, Section 36-1-111(b)(4), is amended by deleting the language "USB" and substituting instead the language "UBS".

SECTION 12. Tennessee Code Annotated, Section 36-1-111(b)(5), is amended by deleting the following language:

d. Prospective Adoptive Parent's Marital Status _____ 3. The following costs have been paid or promised by _____ (me/us) for activities involving the placement of this child. Please include, amount paid or promised, to whom, by whom, date paid and type of service or cost: _____ 4. I am _____, representative of _____ a licensed child placing agency with offices at: _____

and substituting instead the following language:

d. Prospective Adoptive Parent's Marital Status _____ Or 3. I am _____, representative of _____ a licensed child placing agency with offices at: _____ 4. The following costs have been paid or promised by _____ (me/us) for activities involving the placement of this child. Please include, amount paid or promised, to whom, by whom, date paid and type of service or cost: _____.

SECTION 13. Tennessee Code Annotated, Section 36-1-111(b)(5), is amended by deleting the language ". The affidavit required by T.C.A. § 36-1-111(d)(6) of the custodial parent or guardian to this effect has been presented to the court at this time".

SECTION 14. Tennessee Code Annotated, Section 36-1-111(b)(5), is amended by deleting the language ", and the affidavit of the custodial parent or guardian to this effect required by T.C.A. § 36-1-111(d)(6) has been presented to the court at this time;" and substituting instead the language "; or".

SECTION 15. Tennessee Code Annotated, Section 36-1-111(b)(6), is amended by deleting the language "Gaurdian" and substituting instead the language "Guardian".

SECTION 16. Tennessee Code Annotated, Section 36-1-111(d)(6)(B), is amended by deleting the language ", as evidenced by the affidavit of the person or persons receiving the surrender and by affidavit of the surrendering or consenting parent or guardian or court order".

SECTION 17. Tennessee Code Annotated, Section 36-1-111(d)(6)(C), is amended by deleting the language "as evidenced by an affidavit of the person or persons or entities receiving the child and by the affidavit of the surrendering or consenting parent or guardian or court order".

SECTION 18. Tennessee Code Annotated, Section 36-1-104, is amended by deleting the section and substituting instead the following:

Any person who, upon request by any party to an adoption or the party's agent or attorney, a licensed child-placing agency or licensed clinical social worker, the department, or the court, knowingly and willfully withholds any information related to the child who is the subject of a surrender, a termination of parental rights, or an adoption proceeding, or who knowingly and willfully withholds any material information concerning the identity, status, or whereabouts of the child's legal parent or parents, putative father, or guardian or who knowingly and willfully gives false information concerning the child or the identity, status, or whereabouts of the child's legal parent, putative father, or guardian commits a Class A misdemeanor. Nothing in this section shall be construed to require a person or agency to disclose any confidential or privileged information protected by any state or federal law or regulation.

SECTION 19. Tennessee Code Annotated, Section 37-1-102(b)(27)(C), is amended by deleting the subdivision and substituting instead the following:

The commission of any act towards the child prohibited by § 39-13-309, §§ 39-13-502 - 39-13-504, § 39-13-515, § 39-13-522, § 39-13-527, § 39-13-529(a), § 39-13-531, § 39-13-532, § 39-15-302, § 39-15-402, or § 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child; or

SECTION 20. Tennessee Code Annotated, Section 36-1-116(b), is amended by deleting the language "petition to adopt must" and substituting instead the language "petition to adopt may be made upon information and belief, shall be verified, and must".

SECTION 21. Tennessee Code Annotated, Section 36-1-116(b)(13)(A), is amended by deleting the subdivision and substituting instead the following:

(i) That the Tennessee putative father registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter unless the biological father has been identified through DNA

testing as described in § 24-7-112 and that identification is set out in the petition; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner and prior to finalization of the adoption;

(ii) That if the child was born in a state other than Tennessee and that state has a putative father registry or equivalent, that registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter unless the biological father has been identified through DNA testing as described in § 24-7-112 and that identification is set out in the petition; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner; if the state of the child's birth has no putative father registry, the petition must include a statement to that effect;

(iii) That if the petitioner knows or has reason to believe the mother was living or present in another state at the time of the child's conception and that state has a putative father registry or equivalent, that registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner and prior to the finalization of the adoption; if the possible state of the child's conception has no putative father registry, the petition shall include a statement to that effect; and

(iv) That if the child is less than thirty (30) days old at the time the petition is filed, whether notice of the filing of the adoption petition has been provided to any registry required by this section;

SECTION 22. Tennessee Code Annotated, Section 36-1-116(d), is amended by deleting the subsection in its entirety and substituting instead the following:

If this section requires a putative father registry check in any state other than Tennessee and that state will not permit access to its putative father registry, does not respond within thirty (30) days, or requires a fee determined by the court to be unreasonable, and the court finds that the petitioner has otherwise made diligent efforts to identify the child's biological father, the court may waive this requirement and enter an order of adoption.

SECTION 23. Tennessee Code Annotated, Section 36-1-102(43), is amended by deleting the subdivision and substituting instead the following:

"Putative father" means a biological or alleged biological father of a child who, at the time of the filing of the petition to terminate the parental rights of such person, or if no such petition is filed, at the time of the filing of a petition to adopt a child, meets at least one (1) of the criteria set out in § 36-1-117(c), has not been excluded by DNA testing as described in § 24-7-112 establishing that he is not the child's biological father or that another man is the child's biological father, and is not a legal parent;

SECTION 24. Tennessee Code Annotated, Section 36-1-113(d)(1), is amended by deleting the subdivision and substituting instead the following:

The petition to terminate parental rights may be made upon information and belief and shall be verified. If a parent whose parental rights are proposed for termination is the legal parent of the child, as defined in § 36-1-102, and if such parent is alleged to be deceased, then diligent efforts must be made by the petitioner to verify the death of such parent. Upon proof satisfactory to the court that such parent is deceased, no further action shall be required to terminate parental rights of that person.

SECTION 25. Tennessee Code Annotated, Section 36-1-113(d)(2)(A), is amended by deleting the language "petition, or allegations in the adoption petition," and substituting instead the language "petition to terminate parental rights".

SECTION 26. Tennessee Code Annotated, Section 36-1-113(d)(3)(A), is amended by deleting the subdivision in its entirety and substituting instead the following:

(A) The petition to terminate parental rights must state that:

(i) The Tennessee putative father registry has been consulted prior to the filing of the petition or will be consulted within ten (10) days thereafter unless the biological father has been identified through DNA testing as described in § 24-7-112 and that identification is set out in the petition; and a copy of the response to this inquiry shall be provided to the court immediately upon receipt by the petitioner; and

(ii) Notice of the filing of the termination petition has been provided to the Tennessee putative father registry if the child is less than thirty (30) days old at the time the petition is filed.

SECTION 27. Tennessee Code Annotated, Section 36-1-113(d)(3)(B), is amended by deleting the subdivision.

SECTION 28. Tennessee Code Annotated, Section 36-1-113(d)(4), is amended by deleting the language "petition, if filed separately from the adoption petition," and substituting instead the language "petition to terminate parental rights, if filed separately from the adoption petition,".

SECTION 29. Tennessee Code Annotated, Section 36-1-117(a), is amended by deleting the subsection and substituting instead the following:

(a) Unless the legal parent, guardian, or any putative father of the child has surrendered parental or guardianship rights to the child, executed a parental consent, or waived the person's rights pursuant to § 36-1-111(w) or (x), or unless the person's rights have been terminated by court order, such person must be made a party to the adoption

proceeding or to a separate proceeding seeking termination of those rights and those rights must be terminated prior to entry of an order of adoption.

SECTION 30. Tennessee Code Annotated, Section 36-2-318(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Those persons contained on the registry must be given notice by the petitioners in proceedings for the adoption of a child and, except as they may waive their rights under subsection (f), must have their parental rights to the child terminated prior to entry of an adoption order, as may be required pursuant to chapter 1, part 1 of this title, unless they have executed a surrender, waiver of interest, or parental consent as provided in chapter 1, part 1 of this title.

SECTION 31. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following language as a new, appropriately designated subdivision:

"Conservator" means a person or entity appointed by a court to provide partial or full supervision, protection, and assistance of the person or property, or both, of a disabled adult pursuant to title 34, chapter 1 or the equivalent law of another state;

SECTION 32. Tennessee Code Annotated, Section 36-1-117(d)(1), is amended by deleting the language "legal guardians as defined in § 36-1-102 or legal custodians of the person of the child or adult" and substituting instead the language "the guardian or custodian of the child or the conservator of the adult".

SECTION 33. Tennessee Code Annotated, Section 36-1-117(j)(2)(A), is amended by deleting the language "guardian or conservator of the person" and substituting instead the language "conservator".

SECTION 34. Tennessee Code Annotated, Section 36-1-117(j)(2)(B), is amended by deleting the language "guardian or".

SECTION 35. This act shall take effect July 1, 2019, the public welfare requiring it.